

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: Dath

Serial No.: 10/524,640

Confirmation No.: 1992

Filed: May 30, 2006

For: Production of Olefins

§ Atty. Dkt. No.: F-857

§ Group Art Unit: 1797

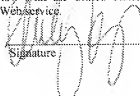
§ Cust. No.: 25264

§ Examiner: Bullock

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Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Honorable Commissioner:

CERTIFICATE OF EFS-WEB TRANSMISSION	
37 CFR 1.110	
I hereby certify that this correspondence is being deposited on the date below with the United States Patent Office via the EFS-Web service.	
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REPLY BRIEF

Appellants submit this Reply Brief to the Board of Patent Appeals and Interferences in response to the Examiner's Answer dated October 5, 2009.

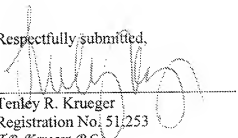
Response to Examiner's Answer

In response to the filed Appeal Brief, the Examiner states that "[i]t would have been obvious to one having ordinary skill in the art to have selected the portion of Kaeding's Si/Al mole ratio that corresponds to the claimed range". See, Examiner's Answer dated October 5, 2009 at page 4, last paragraph. Appellants respectfully disagree.

Appellants specifically claim an MFI crystalline silicate having a silicon/aluminum atomic ratio within the range of 250 to 500 or an MEL crystalline silicate having a silicon/aluminum atomic ratio within the range of 150 to 800. In

contrast, *Kaeding* generally teaches silica to alumina ratios in excess of 298. *See*, column 3, lines 29-32. Appellants respectfully submit that an invention is not per se obvious simply because it falls within a range disclosed by the prior art. *See, Iron Grip Barbell Co., Inc. v. York Barbell Co., Inc.*, 392 F.3d 1317 (Fed. Cir. 2004). *Kaeding* specifically teaches use of very high Si:Al ratio catalysts (e.g., 1600:1). The Examples of *Kaeding* teach that while a catalyst having a Si:Al ratio of 70:1 results in poor conversion rates, the catalyst having a Si:Al ratio of 1600:1 exhibited significantly improved conversion. However, Appellants respectfully submit that such teaching does not adequately render the claimed range obvious to one skilled in the art. In particular, *Kaeding* does not teach, show or suggest at what point between the ratio of 70:1 and 1600:1, the conversion and selectivity towards **propylene** production becomes significant (rather than the overall C₂-C₄ conversion rate as reported by *Kaeding*). Accordingly, Appellants respectfully submit that the teachings of *Kaeding* do not adequately, teach, show or suggest the features of the broadest pending claims (nor would it be obvious to combine the teachings of *Kaeding* and *Fina*, as discussed fully in the prior filed Appeal and Reply Briefs), nor of pending claims 18-19, which require that the propylene/ethylene ratio of the product is greater than the propylene/ethylene ratio of a conversion product produced by the conversion of a methanol-containing feedstock operated at an inlet temperature in said reactor of 4000 C. Accordingly, Appellants respectfully request reversal of the rejection.

Respectfully submitted,



Tenley R. Krueger
Registration No. 51,253
T.R. Krueger, P.C.
P.O. Box 16356
Sugar Land, Texas, 77496-6356
Telephone: 281-778-8934
Facsimile: 281-778-8937
Attorney for Appellant(s)